

P.L. 2002, CHAPTER 108, *approved December 4, 2002*
Senate, No. 1878

1 **AN ACT** clarifying certain provisions of P.L.2002, c.43, amending and
2 supplementing P.L.2002, c.43 (C.52:27BBB-1 et seq.).

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

- 6
7 1. (New section) The Legislature finds and declares that:
8 a. The court decision striking certain provisions of P.L.2002, c.43
9 requires the Legislature to clarify its intent in approving that act;
10 b. The court's interpretation of P.L.2002, c.43 is contrary to the
11 intent of the Legislature and as a result, amendatory legislation
12 removing any question regarding the intent, scope and applicability of
13 that act is appropriate;
14 c. It is also important to clarify and expand upon a legislative intent
15 of focusing redevelopment efforts in qualified municipalities by
16 ensuring that the expenditure of public dollars for development and
17 redevelopment is coordinated with the expenditure of public dollars
18 supporting schools and educational efforts in such municipalities; and
19 d. Given the magnitude of the State's investment in a qualified
20 municipality, it is incumbent upon the State to take the appropriate
21 steps necessary to ensure effective governance at the school district
22 level in addition to effective governance at the municipal level. Not
23 only will limited school district oversight ensure the coordinated
24 expenditures of public funds, it will ensure that the proposed local tax
25 levy to support the district's schools will not further burden the
26 municipal tax base. Additionally, this oversight will assist the district
27 in improving the quality of education provided to students in the
28 municipality. Enhancing educational quality will, in turn, assist
29 housing revitalization by attracting new families to the community and
30 preventing flight of current residents. It will also serve to attract new
31 businesses and potential employers because the community can offer
32 better-prepared graduates to the workforce.

- 33
34 2. Section 2 of P.L.2002, c.43 (C.52:27BBB-2) is amended to read
35 as follows:
36 2. The Legislature finds and declares that:
37 a. There exists in certain municipalities a continuing state of fiscal
38 distress which endures despite the imposition of a series of measures

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 authorized pursuant to law;
- 2 b. Economically impoverished, those municipalities have a history
3 of high crime rates, including arson, that has necessitated the
4 maintenance of large police and fire departments, at enormous
5 taxpayer cost in municipalities without a sound tax base;
- 6 c. The past fifty years have witnessed the depopulation of those
7 municipalities characterized by such problems;
- 8 d. Spending power on the part of residents of these municipalities
9 is severely limited and local businesses thereby suffer from the lack of
10 an indigenous client base so that rebuilding the fortunes of city
11 residents in order to recreate a viable urban economy will require a
12 considerable period of time;
- 13 e. Notwithstanding the prosperity which has been experienced
14 elsewhere throughout New Jersey in recent years, the unemployment
15 rate in these municipalities is substantially higher than that of most
16 other municipalities;
- 17 f. While the rest of New Jersey has enjoyed increased land values,
18 the ratable base in these municipalities has declined steadily during the
19 1990's, marked by their low equalized value per capita which can be
20 about one-half that of other cities;
- 21 g. Coupled with this economic deprivation, many of these
22 municipalities are characterized by a lack of internal audit controls,
23 accountability and oversight, evidenced by the fact that although real
24 estate taxes comprise over two-thirds of locally generated revenues,
25 many of these municipalities do not rigorously enforce collection and
26 receive but a portion of their levy;
- 27 h. Although the State has experienced a period of tremendous
28 prosperity and economic growth over the past few years, such
29 municipalities continue to languish without any obvious signs of
30 improvement;
- 31 i. These municipalities have experienced a substantial budget
32 deficit for many years which has only been addressed through
33 extraordinary payments of State aid;
- 34 j. While State aid dollars which have been directed toward such
35 municipalities have served to address their structural deficits, they
36 have not, and cannot, function as an economic impetus toward the
37 rebuilding of those municipalities;
- 38 k. Because a significant proportion of the population of such
39 municipalities lacks adequate health insurance coverage, causing many
40 to seek basic care in municipal emergency rooms, municipal hospitals
41 are heavily dependent upon state assistance commonly referred to as
42 "charity care" for reimbursement. Such health services are crucial to
43 the overall health of the infrastructure and social growth and stability
44 of qualified municipalities. Moreover, the demand for such health
45 services has necessitated planning for a major expansion of medical
46 school programs within qualified municipalities;

1 l. Given the high crime rates in these municipalities, if economic
2 recovery is to be successful, it is vital that municipal residents feel that
3 their basic safety is assured; accordingly, the State will continue to
4 commit to assist such municipalities in maintaining not less than that
5 number of police officers employed by the municipality [on the
6 effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] at the time
7 of the determination by the commissioner that the municipality fulfills
8 the definition of a qualified municipality and in creating working
9 relationships between State agencies, local law enforcement and the
10 community to identify and develop strategies to improve the quality of
11 life and the security of residents in qualified municipalities;

12 m. In order to ensure the long-term economic viability of such
13 municipalities, it is critical that the Legislature encourage, to the
14 extent possible, the production of market-rate housing within the
15 municipality so as to expand the local tax base and provide a greater
16 diversity of income levels among municipal inhabitants;

17 n. When faced with analogous situations, other states have
18 employed extraordinary measures to provide leadership and oversight
19 for struggling cities and the necessary tools to spur an economic
20 revival within those cities; and

21 o. In light of the dire needs faced by such municipalities and the
22 lack of progress in addressing those needs either governmentally or
23 through private sector initiative, and given the successful interventions
24 on the part of other states in analogous circumstances, it is incumbent
25 upon the State to take exceptional measures, on an interim basis, to
26 rectify certain governance issues faced by such municipalities and to
27 strategically invest those sums of money necessary in order to assure
28 the long-term financial viability of these municipalities.

29 (cf: P.L.2002, c.43, s.2)

30

31 3. Section 3 of P.L.2002, c.43 (C.52:27BBB-3) is amended to read
32 as follows:

33 3. As used in this act:

34 "Authority" means the New Jersey Economic Development
35 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

36 "Board" means the State Economic Recovery Board established
37 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

38 "Chief operating officer" means that person appointed pursuant to
39 P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing
40 governmental operations of a qualified municipality in order to assure
41 the delivery of essential municipal services and the professional
42 administration of that municipal government.

43 "Commissioner" means the Commissioner of Community Affairs.

44 "Contiguous with" means within.

45 "Director" means the Director of the Division of Local Government
46 Services in the Department of Community Affairs.

1 "Economic recovery term" means the period commencing with the
2 expiration of the term of the chief operating officer and terminating
3 five years thereafter.

4 "In consultation with" means with consideration of the input of, or
5 the advice of, the mayor, governing body, chief operating officer or
6 director, as the case may be, without regard to the form or manner of
7 the consultation.

8 "Local Finance Board" means the Local Finance Board of the
9 Division of Local Government Services in the Department of
10 Community Affairs.

11 "Mayor" means the mayor or chief executive officer of the
12 municipality, as appropriate to the form of government.

13 "Project" means: (1) (a) acquisition, construction, reconstruction,
14 repair, alteration, improvement and extension of any building,
15 structure, facility, including water transmission facilities or other
16 improvement, whether or not in existence or under construction, (b)
17 purchase and installation of equipment and machinery, (c) acquisition
18 and improvement of real estate and the extension or provision of
19 utilities, access roads and other appurtenant facilities; and (2) (a) the
20 acquisition, financing, or refinancing of inventory, raw materials,
21 supplies, work in process, or stock in trade, or (b) the financing,
22 refinancing or consolidation of secured or unsecured debt, borrowings,
23 or obligations, or (c) the provision of financing for any other expense
24 incurred in the ordinary course of business; all of which are to be used
25 or occupied by any person in any enterprise promoting employment,
26 either for the manufacturing, processing or assembly of materials or
27 products, or for research or office purposes, including, but not limited
28 to, medical and other professional facilities, or for industrial,
29 recreational, hotel or motel facilities, public utility and warehousing,
30 or for commercial and service purposes, including, but not limited to,
31 retail outlets, retail shopping centers, restaurant and retail food
32 outlets, and any and all other employment promoting enterprises,
33 including, but not limited to, motion picture and television studios and
34 facilities and commercial fishing facilities, commercial facilities for
35 recreational fishermen, fishing vessels, aquaculture facilities and
36 marketing facilities for fish and fish products and (d) acquisition of an
37 equity interest in, including capital stock of, any corporation; or any
38 combination of the above, which the authority determines will: (i) tend
39 to maintain or provide gainful employment opportunities within and
40 for the people of the State, or (ii) aid, assist and encourage the
41 economic development or redevelopment of any political subdivision
42 of the State, or (iii) maintain or increase the tax base of the State or of
43 any political subdivision of the State, or (iv) maintain or diversify and
44 expand employment promoting enterprises within the State; and (3)
45 the cost of acquisition, construction, reconstruction, repair, alteration,
46 improvement and extension of an energy saving improvement or

1 pollution control project which the authority determines will tend to
2 reduce the consumption in a building devoted to industrial or
3 commercial purposes, or in an office building, of nonrenewable
4 sources of energy or to reduce, abate or prevent environmental
5 pollution within the State; and (4) the acquisition, construction,
6 reconstruction, repair, alteration, improvement, extension,
7 development, financing or refinancing of infrastructure and
8 transportation facilities or improvements related to economic
9 development and of cultural, recreational and tourism facilities or
10 improvements related to economic development and of capital facilities
11 for primary and secondary schools and of mixed use projects
12 consisting of housing and commercial development; and (5) the
13 establishment, acquisition, construction, rehabilitation, improvement,
14 and ownership of port facilities as defined in section 3 of P.L.1997,
15 c.150 (C.34:1B-146). Project may also include: reimbursement to any
16 person for costs in connection with any project, or the refinancing of
17 any project or portion thereof, if such actions are determined by the
18 authority to be necessary and in the public interest to maintain
19 employment and the tax base of any political subdivision and likely to
20 facilitate improvements or the completion of the project; and
21 developing property and any construction, reconstruction,
22 improvement, alteration, equipment or maintenance or repair, or
23 planning and designing in connection therewith. For the purpose of
24 carrying out mixed use projects consisting of both housing and
25 commercial development, the authority may enter into agreements with
26 the New Jersey Housing and Mortgage Finance Agency for loan
27 guarantees for any such project in accordance with the provisions of
28 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall
29 allocate to the New Jersey Housing and Mortgage Finance Agency,
30 under such agreements, funding available pursuant to subsection a. of
31 section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not
32 include a school facilities project.

33 "Qualified municipality" means a municipality: (1) that has been
34 subject to the supervision of a financial review board pursuant to the
35 "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et
36 seq.) for at least one year; (2) that has been subject to the supervision
37 of the Local Finance Board pursuant to the "Local Government
38 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for
39 at least one year; and (3) which, according to its most recently
40 adopted municipal budget [on the effective date of P.L.2002, c.43
41 (C.52:27BBB-1 et al.)], is dependent upon State aid and other State
42 revenues for not less than 55 percent of its total budget.

43 "Regional Impact Council" or "council" means that body established
44 pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

45 "Rehabilitation term" means that period during which the qualified
46 municipality is under the direction of the chief operating officer

1 appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

2 "Special arbitrator" means that judge designated by the Chief
3 Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

4 "State supervision" means supervision pursuant to Article 4 of the
5 "Local Government Supervision Act (1947)," P.L.1947, c.151
6 (C.52:27BB-54 et seq.).

7 "Treasurer" or "State treasurer" means the Treasurer of the State
8 of New Jersey.

9 "Under rehabilitation and economic recovery" means that period
10 which coincides with the rehabilitation term and the economic
11 recovery term.

12 (cf: P.L.2002, c.43, s.3)

13

14 4. Section 4 of P.L.2002, c.43 (C.52:27BBB-4) is amended to read
15 as follows:

16 4. Within 30 days of the effective date of P.L.2002, c.43
17 (C.52:27BBB-1 et al.) and thereafter within 30 days of the deadline
18 for the adoption of municipal budgets pursuant to the "Local Budget
19 Law," N.J.S.40A:4-1 for each calendar or State fiscal year, as
20 appropriate to the budget adoption schedule, the commissioner shall
21 make a determination regarding which municipalities fulfill the
22 definition of a qualified municipality pursuant to P.L. , c. (C.
23) (pending before the Legislature as this bill) and shall notify the
24 Governor, the State Treasurer, the mayor and each member of the
25 governing body of each qualified municipality that the municipality is
26 subject to the provisions of the "Municipal Rehabilitation and
27 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The
28 date of the notification shall be considered the date a municipality is
29 designated as a qualified municipality. In addition, the commissioner
30 shall notify:

31 a. the county executive, county manager, the freeholder director
32 or chairperson, as appropriate to the form of government, and each
33 member of the board of chosen freeholders of each county in which is
34 situated a qualified municipality;

35 b. the Chief Justice of the New Jersey Supreme Court; [and]

36 c. each member of the Senate and General Assembly; and

37 d. the Commissioner of Education. If the commissioner determines
38 that any school district which is contiguous with the qualified
39 municipality is subject to level II or level III monitoring pursuant to
40 section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner shall
41 forthwith notify the Governor and the board of education of the school
42 district that the school district is subject to the provisions of sections
43 67 and 68 of P.L.2002, c.43 (C.52:27BBB-63 and 64).

44 Any designation of a qualified municipality made pursuant to
45 P.L.2002, c.43 (C.52:27BBB-1 et seq.) prior to the enactment of P.L.
46 , c. (C.) (pending before the Legislature as this bill) is

1 continued.

2 (cf: P.L.2002, c.43, s.4)

3

4 5. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read
5 as follows:

6 6. a. Upon the appointment of a chief operating officer pursuant
7 to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified
8 municipality shall be under rehabilitation and economic recovery. This
9 period shall begin with the assumption of job responsibilities by the
10 chief operating officer pursuant to this section and terminate five years
11 following the end of the term of the chief operating officer. The
12 period corresponding with the term of the chief operating officer shall
13 be referred to hereinafter as the rehabilitation term. The period
14 commencing with the expiration of the term of the chief operating
15 officer and terminating five years thereafter shall be referred to
16 hereinafter as the economic recovery term.

17 b. During the economic recovery term, the mayor shall exercise
18 those powers delegated to the mayor pursuant to the form of
19 government, the charter and the administrative code of the
20 municipality, and those powers delegated to the mayor under general
21 law. In addition, during the economic recovery term, the mayor shall
22 retain the power to veto the minutes of any independent board or
23 authority, including, but not limited to, the housing authority, parking
24 authority, redevelopment authority, planning board and board of
25 adjustment.

26 While the municipality is under rehabilitation and economic
27 recovery, the mayor shall retain the power to make those appointments
28 to municipal authorities, boards or commissions, as the case may be,
29 which is otherwise allocated to the mayor pursuant to law.

30 The mayor may retain staff for the purpose of advising the mayor
31 and aiding in the performance of constituent services.

32 c. Upon the assumption of job responsibilities by the chief
33 operating officer, the financial review board created pursuant to
34 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the
35 finances of the municipality shall cease to function and the municipality
36 shall cease to be under supervision pursuant to Article 4 of P.L.1947,
37 c.151 (C.52:27BB-54 et seq.).

38 All outstanding debts or obligations incurred by [the] a qualified
39 municipality or the New Jersey Housing and Mortgage Finance
40 Agency established pursuant to section 4 of the "New Jersey Housing
41 and Mortgage Finance Agency Law of 1983," P.L.1983, c.530
42 (C.55:14K-4) and secured by a right of first refusal on municipally-
43 owned property as of [60] 10 days following [the effective date of
44 P.L.2002, c.43 (C.52:27BBB-1 et al.)] a determination by the
45 commissioner that the municipality fulfills the definition of a qualified
46 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4),

1 with any subsidiary of that agency with jurisdiction in a qualified
2 municipality, other than those debts or obligations represented by
3 bonds or other negotiable instruments, are forgiven.

4 Notwithstanding the termination of the financial review board and
5 supervision, all memorandums of understanding entered into by the
6 municipality as a condition of receiving assistance under P.L.1987,
7 c.75 (C.52:27D-118.24 et seq.) that require the municipality to
8 implement any government, administrative, operational efficiency or
9 oversight measures necessary for the fiscal recovery of the
10 municipality as recommended by the director and approved by the
11 Local Finance Board shall continue to have full force and effect.
12 (cf: P.L.2002, c.43, s.6)

13
14 6. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read
15 as follows:

16 7. a. [Within 30 days following the enactment of P.L.2002, c.43
17 (C.52:27BBB-1 et al.)] Upon receiving notification by the
18 Commissioner of Community Affairs pursuant to section 4 of
19 P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief
20 operating officer in consultation with the mayor and the governing
21 body. The chief operating officer shall serve at the pleasure of the
22 Governor. The chief operating officer shall be qualified by training
23 and experience for the position and shall have at least 10 years of
24 experience in the management or supervision of government activities,
25 three years of which may be substituted by an advanced degree in
26 business, law, or public administration.

27 b. Pending the appointment of a chief operating officer or, in the
28 event of the death, resignation, removal or inability of the chief
29 operating officer to discharge the duties of that office, the functions,
30 powers and duties of the chief operating officer shall devolve upon the
31 director, for the time being, until a chief operating officer is appointed
32 or is able to discharge the duties of that office. In the event that the
33 chief operating officer does not serve out the chief operating officer's
34 term of office for any reason, a successor shall be chosen by the
35 Governor.

36 c. The term of the chief operating officer shall terminate five years
37 following the assumption of duties on the part of the chief operating
38 officer. The chief operating officer may be hired as a State employee
39 in the unclassified service of Title 11A, Civil Service, of the New
40 Jersey Statutes or may be hired under contract, as provided hereunder.
41 Notwithstanding any other provision of law, no person so appointed
42 shall acquire tenure.

43 If the chief operating officer is hired under contract, the person
44 hired shall meet the qualifications set forth herein, and it shall be clear
45 from the contract that the position is full-time and that the job site
46 shall be at the principal offices of the municipality. If, for any reason,

1 a person engaged under contract is unable to fulfill the job
2 responsibilities of chief operating officer, the selection process shall be
3 recommenced in accordance with the provisions of this section.

4 If the chief operating officer is hired under contract, the
5 contract shall be available for public inspection in the office of the
6 municipal clerk.

7 d. Subject to the approval of the commissioner, the salary,
8 benefits and costs of the chief operating officer shall be fixed by the
9 board and adjusted from time to time as the board deems appropriate.
10 The salary level and benefits shall be comparable to that of the director
11 of any public authority or agency with jurisdiction in the qualified
12 municipality. The salary, benefits, and costs of the chief operating
13 officer shall be an expense of the State.

14 (cf: P.L.2002, c.43, s.7)

15
16 7. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to
17 read as follows:

18 36. a. In order to facilitate the rehabilitation and economic recovery
19 of each qualified municipality, there is created a subsidiary corporation
20 of the New Jersey Economic Development Authority, which shall be
21 known as the State Economic Recovery Board for (insert name of
22 qualified municipality). The board shall operate for the period during
23 which the municipality is under rehabilitation and economic recovery
24 and for a period of two years thereafter. Any outstanding debts or
25 obligations which remain at the termination of board operation shall be
26 assumed by the authority and any accounts payable to the board shall
27 be due and payable to the authority.

28 b. The board shall consist of 15 voting members, as follows: the
29 mayor of the qualified municipality; a representative of the municipal
30 governing body selected by the governing body; the chief operating
31 officer; the State Treasurer; the Commissioner of Community Affairs;
32 the chairperson of the authority; a representative of the regional
33 impact council selected by the council; the director of the board of
34 chosen freeholders of the county in which the qualified municipality is
35 situated, as provided hereunder, all of whom shall serve ex officio and
36 may select a designee to serve in their stead; one public member
37 chosen by the Governor, based on the recommendation of the Senate
38 President and one public member chosen by the Governor, based on
39 the recommendation of the Assembly Speaker; and five public
40 members to be appointed by the Governor, to include one
41 representative of organized labor and one representing the business
42 community. Of the public members appointed by the Governor, at
43 least three shall be municipal residents. The board shall include two
44 nonvoting ex officio legislative members to be chosen by the
45 Governor, one of whom shall be selected based on the
46 recommendation of the Senate President and the other upon the

1 recommendation of the Speaker of the General Assembly. These
2 members shall be advisory members, appointed solely for the purpose
3 of developing and facilitating legislation to assist the board in fulfilling
4 its statutory mission, and may not exercise any of the executive
5 powers delegated to the board. In addition, the Senior Community
6 Builder in the State office of the federal Department of Housing and
7 Urban Development shall serve as an ex officio, non-voting member
8 of the board.

9 A majority of the entire authorized voting membership of the board
10 shall constitute a quorum at any meeting thereof.

11 c. Each public member shall serve for a term of five years.
12 Vacancies in the public membership of the board shall be filled in the
13 same manner as the original appointments are made and a member may
14 be eligible for reappointment. Vacancies occurring other than by
15 expiration of a term shall be filled for the unexpired term. Each ex
16 officio member shall serve for the period during which the municipality
17 is under rehabilitation and economic recovery and for a period of two
18 years thereafter.

19 The Governor shall designate the chairperson of the board.

20 d. The board shall be appointed as expeditiously as possible upon
21 the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]
22 determination by the commissioner that the municipality fulfills the
23 definition of a qualified municipality pursuant to section 4 of P.L.2002,
24 c.43 (C.52:27BBB-4) and shall convene not later than 30 days
25 following [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)] that
26 determination for its organizational meeting. Thereafter, the board
27 shall meet regularly and on not less than a quarterly basis. At its first
28 organizational meeting, the board shall appoint one of the public
29 members to serve as its designee on the New Jersey Economic
30 Development Authority pursuant to section 4 of P.L.1974, C.80 as
31 amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

32 e. The voting authority of the director of the county board of
33 chosen freeholders shall not become effective until the filing with the
34 Secretary of State of an agreement entered into by the chief operating
35 officer, acting on behalf of the municipality, and the county, detailing
36 the financial commitment of the county to the redevelopment of the
37 infrastructure of the municipality which shall include improvements or
38 other economic benefits totalling not less than \$20 million and a
39 proposed construction schedule for the completion thereof.

40 (cf: P.L.2002, c.43, s.36)

41
42 8. Section 39 of P.L.2002, c.43 (C.52:27BBB-39) is amended to
43 read as follows:

44 39. a. There is established for each qualified municipality a regional
45 impact council to serve for that period during which the municipality
46 is under rehabilitation and economic recovery. The council shall

1 consist of: the mayor of the qualified municipality or his or her
2 designee; the mayor of any municipality in the county in which the
3 qualified municipality is situated which on or before the [effective date
4 of P.L.2002, c.43 (C.52:27BBB-1 et al.)] determination by the
5 commissioner that the municipality fulfills the definition of a qualified
6 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
7 has participated in a regional collaborative established to further the
8 strategic revitalization of the qualified municipality or the mayor's
9 designee; the director of the board of chosen freeholders of the county
10 in which the qualified municipality is situated or his or her designee;
11 the director of the Office of State Planning or his or her designee; one
12 representative of the New Jersey Regional Coalition, to be appointed
13 as provided hereinafter; and four public members, two of whom shall
14 be appointed by the Governor, one of whom shall be appointed by the
15 Senate President and one of whom shall be appointed by the Speaker
16 of the General Assembly. In the event that a regional collaborative has
17 not been established in the county in which the qualified municipality
18 is situated, the regional impact council shall include the mayor of each
19 municipality that borders on the qualified municipality. The four
20 public members shall include at least one member of the faith-based
21 community within the region; one member of the business community;
22 one member of the higher education community; and one member of
23 the labor community within the region.

24 b. Within 30 days of [the effective date of P.L.2002, c.43
25 (C.52:27BBB-1 et al.)] a determination by the commissioner that a
26 municipality fulfills the definition of a qualified municipality pursuant
27 to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the New Jersey
28 Regional Coalition shall submit to the Governor three nominees for
29 consideration, from which the Governor may choose. If the
30 organization does not submit three nominees for consideration at any
31 time required, the Governor may appoint a member of the Governor's
32 choice.

33 c. No member of the council shall receive a salary for service on
34 the council but shall be reimbursed for reasonable and necessary
35 expenses associated with serving on the council.

36 d. A majority of the members of the council shall choose one of
37 the members to serve as the chair. Each member of the council shall
38 serve for a two-year term and, upon expiration of that term, may be
39 reappointed. Vacancies among the membership shall be filled in the
40 same manner in which the original appointment was made.

41 e. The council shall select an appropriate location or locations in
42 which to meet. The council may adopt its own bylaws and procedures
43 that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

44 f. The council shall be eligible for and may employ a consultant
45 and such staff as it deems necessary, to the extent that funds are made
46 available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other

1 sources. The council may call upon the commissioner for such
2 assistance as it deems necessary.

3 g. The council may hold public hearings at the call of the chair
4 and pursuant to the "Open Public Meetings Act," P.L.1975, c.231
5 (C.10:4-6 et seq.).
6 (cf: P.L.2002, c.43, s.39)

7

8 9. Section 45 of P.L.2002, c.43 (C.52:27BBB-44) is amended to
9 read as follows:

10 45. a. The board shall prepare and submit a project list, as provided
11 hereunder. The list shall be consistent with the strategic revitalization
12 plan and capital improvement and infrastructure plans for the qualified
13 municipality to the extent practicable and shall include a series of
14 projects which are prioritized according to their importance in
15 revitalizing the qualified municipality.

16 Following [the enactment of P.L.2002, c.43 (C.52:27BBB-1 et
17 al.)] a determination by the commissioner that a municipality fulfills
18 the definition of a qualified municipality pursuant to section 4 of
19 P.L.2002, c.43 (C.52:27BBB-4) and the preparation of the plans
20 mentioned above, the capital and infrastructure needs shall be assessed
21 and projects shall be anticipated over a three-year period. The bond
22 moneys authorized to be issued pursuant to section 47 of P.L.2002,
23 c.43 (C.52:27BBB-46) shall be expended over a three year period.

24 The board shall adopt each project list by a majority of those
25 members present. In the event that the board selects to rescind a
26 project from the list, such a vote shall be by a two-thirds vote of the
27 fully authorized membership thereof.

28 Each project list shall be submitted to the Commission on Capital
29 Budgeting and Planning, the Chairperson of the Senate Appropriations
30 Committee and the Chairperson of the Assembly Appropriations
31 Committee, or their successors, and the Legislative Budget and
32 Finance Officer, on or before March 1 of each year.

33 b. The President of the Senate and the Speaker of the General
34 Assembly shall cause the date of submission of the project list to be
35 entered upon the Senate Journal and the Minutes of the General
36 Assembly.

37 c. On or before March 1 of each year, the board shall submit a
38 report of general project categories and proposed projects thereunder
39 to be financed in the ensuing fiscal year, including therewith a
40 description of the projects, the county or counties within which they
41 are to be located, a distinction between State, local and private
42 projects, and the amount estimated to be expended on each project.
43 This report shall be known as the "Annual Qualified Municipality
44 Capital and Economic Recovery Program" for the upcoming fiscal
45 year. The program shall be consistent with, and reflective of, the goals
46 and priorities of the Strategic Revitalization Plan, capital improvement

1 and infrastructure plan, and the program shall include an explanation
2 which demonstrates how it is consistent with, and reflective of, the
3 goals and priorities.

4 d. On or before August 1 of each year, the board shall also submit
5 a "Qualified Municipality Capital and Economic Recovery Financial
6 Plan" designed to implement the financing of the proposed projects.
7 The financial plan shall contain an enumeration of the bonds, notes or
8 other obligations of the authority which the authority intends to issue,
9 including the amounts thereof and the conditions therefor.

10 In addition, the plan shall contain proposed amounts to be
11 appropriated and expended, as well as amounts for which the authority
12 anticipates to obligate during the ensuing fiscal year for any future
13 expenditures.

14 (cf: P.L.2002, c.43, s.45)

15
16 10. Section 54 of P.L.2002, c.43 (C.52:27BBB-53) is amended to
17 read as follows:

18 54. As used in this section and section 55 of P.L.2002, c.43
19 (C.52:27BBB-54):

20 a. "Business facility" means any factory, mill, plant, refinery,
21 warehouse, building, complex of buildings or structural components
22 of buildings, and all machinery, equipment and personal property
23 located within a qualified municipality, used in connection with the
24 operation of the business of a corporation that is subject to the tax
25 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and
26 all facility preparation and start-up costs of the taxpayer for the
27 business facility which it capitalizes for federal income tax purposes.

28 b. "Business relocation or business expansion property" means
29 improvements to real property and tangible personal property, but only
30 if that improvement or personal property is constructed or purchased
31 and placed in service or use by the taxpayer, for use as a component
32 part of a new or expanded business facility located in a qualified
33 municipality.

34 (1) Business relocation or business expansion property shall
35 include only:

36 (a) improvements to real property placed in service or use as a
37 business facility by the taxpayer on or after the [operative date of
38 P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer] notification of
39 the Governor by the commissioner pursuant to section 4 of P.L.2002,
40 c.43 (C.52:27BBB-4) that the municipality in which the property is
41 situated fulfills the definition of a qualified municipality;

42 (b) tangible personal property placed in service or use by the
43 taxpayer on or after the [operative date of P.L.2002, c.43
44 (C.52:27BBB-1 et al.)] notification of the Governor by the
45 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
46 that the municipality in which the property is situated fulfills the

1 definition of a qualified municipality, with respect to which
2 depreciation, or amortization in lieu of depreciation, is allowable in
3 determining the corporation business tax liability of the taxpayer under
4 P.L.1945, c.162, and which has a remaining recovery period of three
5 or more years at the time the property is placed in service or use in a
6 qualified municipality; or

7 (c) tangible personal property owned and used by the taxpayer at
8 a business location outside a qualified municipality which is moved
9 into a qualified municipality on or after the [effective date of
10 P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification of the Governor
11 by the commissioner pursuant to section 4 of P.L.2002, c.43
12 (C.52:27BBB-4) that the municipality in which the property is situated
13 fulfills the definition of a qualified municipality, for use as a
14 component part of a new or expanded business facility located in the
15 qualified municipality; provided that the property is depreciable or
16 amortizable personal property for income tax purposes, and has a
17 remaining recovery period of three or more years at the time the
18 property is placed in service or use in a qualified municipality.

19 (2) Property purchased for business relocation or expansion shall
20 not include:

21 (a) repair costs, including materials used in the repair, unless for
22 federal income tax purposes, the cost of the repair must be capitalized
23 and not expensed;

24 (b) airplanes;

25 (c) property which is primarily used outside a qualified
26 municipality with that use being determined based upon the amount of
27 time the property is actually used both within and without the qualified
28 municipality;

29 (d) property which is acquired incident to the purchase of the stock
30 or assets of the seller.

31 (3) Property shall be deemed to have been purchased prior to a
32 specified date only if:

33 (a) the physical construction, reconstruction or erection of the
34 property was begun prior to the specified date, or such property was
35 constructed, reconstructed, erected or acquired pursuant to a written
36 contract as existing and binding on the purchase prior to the specified
37 date; or

38 (b) the machinery or equipment was owned by the taxpayer prior
39 to the specified date, or was acquired by the taxpayer pursuant to a
40 binding purchase contract which was in effect prior to the specified
41 date.

42 c. "Business relocation or expansion" means capital investment in
43 a new or expanded business facility in a qualified municipality.

44 d. "Controlled group" means one or more chains of corporations
45 connected through stock ownership with a common parent corporation
46 if stock possessing at least 50% of the voting power of all classes of

1 stock of each of the corporations is owned directly or indirectly by one
2 or more of the corporations; and the common parent owns directly
3 stock possessing at least 50% of the voting power of all classes of
4 stock of at least one of the other corporations.

5 e. "Director" means the Director of the Division of Taxation in
6 the Department of the Treasury.

7 f. "Expanded business facility" means any business facility, other
8 than a new business facility, resulting from acquisition, construction,
9 reconstruction, installation or erection of improvements or additions
10 to existing property if such improvements or additions are purchased
11 on or after the effective date of rehabilitation and economic recovery.

12 g. "Incentive payment" means: the amount of tax owed by a
13 taxpayer for a privilege period, as computed pursuant to section 5 of
14 P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator
15 of which is the average value of the taxpayer's business relocation or
16 business expansion property within a qualified municipality during the
17 period covered by its report, and the denominator of which is the
18 average value of all the taxpayer's real and tangible personal property
19 in New Jersey during such period which result is multiplied by 96
20 percent; provided, however, that for the purpose of determining
21 average value, the provisions with respect to depreciation as set forth
22 in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of
23 P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving
24 at such value; and provided further that incentive payments shall be
25 made for a period not to exceed 10 years, commencing on the date of
26 a taxpayer's first acquisition of business relocation or business
27 expansion property in the qualified municipality following the
28 [operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification
29 of the Governor by the commissioner pursuant to section 4 of
30 P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the
31 property is situated fulfills the definition of a qualified municipality.

32 h. "New business facility" means a business facility which:

33 (1) is employed by a taxpayer in the conduct of a business which
34 is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A
35 business facility shall not be considered a new business facility in the
36 hands of a taxpayer if the taxpayer's only activity with respect to the
37 facility is to lease it to another person;

38 (2) is purchased by a taxpayer and is placed in service or use on or
39 after the effective date of rehabilitation and economic recovery;

40 (3) was not purchased by a taxpayer from a related person; and

41 (4) was not in service or use during the 90-day period immediately
42 prior to transfer of the title to the facility.

43 i. "Partnership" means a syndicate, group, pool, joint venture or
44 other unincorporated organization through or by means of which any
45 business, financial operation or venture is carried on, and which is not
46 a trust or estate, a corporation or a sole proprietorship. The term

1 "partner" includes a member in such a syndicate, group, pool, joint
2 venture or organization.

3 j. "Purchase" means, with respect to the determination of whether
4 business relocation or business expansion property was purchased, any
5 acquisition of property, including an acquisition pursuant to a lease,
6 but only if:

7 (1) the property is not acquired from a person whose relationship
8 to the person acquiring it would result in the disallowance of
9 deductions under section 267 or subsection (b) of section 707 of the
10 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

11 (2) the property is not acquired by one member of a controlled
12 group from another member of the same controlled group; and

13 (3) the basis of the property for federal income tax purposes, in the
14 hands of the person acquiring it, is not determined:

15 (a) in whole or in part by reference to the federal adjusted basis of
16 such property in the hands of the person from whom it was acquired;

17 or

18 (b) under subsection (e) of section 1014 of the federal Internal
19 Revenue Code of 1986, 26 U.S.C. s.1014.

20 k. "Related person" means:

21 (1) a corporation, partnership, association or trust controlled by
22 the taxpayer;

23 (2) an individual, corporation, partnership, association or trust that
24 is in control of the taxpayer;

25 (3) a corporation, partnership, association or trust controlled by an
26 individual, corporation, partnership, association or trust that is in
27 control of the taxpayer; or

28 (4) a member of the same controlled group as the taxpayer.

29 (cf: P.L.2002, c.43, s.54)

30
31 11. Section 60 of P.L.2002, c.43 (C.52:27BBB-58) is amended to
32 read as follows:

33 60. In order to fulfill its obligation to establish an affirmative action
34 program for the hiring of minority and female workers employed in the
35 performance of construction contracts undertaken in connection with
36 a project undertaken or financed by the authority pursuant to
37 P.L.2002, c.43 (C.52:27BBB-1 et al.) in a qualified municipality, the
38 authority shall comply with all requirements for pre-apprenticeship and
39 apprenticeship applicable to the authority in that qualified municipality
40 on or after the [effective date of P.L.2002, c.43 (C.52:27BBB-1 et
41 al.)] determination by the commissioner that the municipality fulfills
42 the definition of a qualified municipality pursuant to section 4 of
43 P.L.2002, c.43 (C.52:27BBB-4).

44 (cf: P.L.2002, c.43, s.60)

45
46 12. Section 66 of P.L.2002, c.43 (C.52:27BBB-62) is amended to

1 read as follows:

2 66. Upon the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]
3 date upon which the commissioner determines that the municipality
4 fulfills the definition of a qualified municipality pursuant to section 4
5 of P.L.2002, c.43 (C.52:27BBB-4) and during the rehabilitation term,
6 there shall be a moratorium on regional contribution agreements
7 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified
8 municipality.
9 (cf: P.L.2002, c.43, s.66)

10

11 13. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to
12 read as follows:

13 67. a. [Notwithstanding the provisions of any law to the contrary,
14 in the case of a Type II school district which is contiguous with a
15 qualified municipality and which has a nine-member board of
16 education, the Governor shall appoint three additional members to the
17 board of education upon the enactment of P.L.2002, c.43
18 (C.52:27BBB-1 et al.). The appointed members shall be voting
19 members of the board who shall serve at the pleasure of the Governor
20 for three-year terms and they shall be eligible for reappointment. Two
21 members shall be residents of the qualified municipality and one
22 member shall be employed in the qualified municipality.

23 b. At the first organizational meeting conducted pursuant to
24 N.J.S.18A:10-3 following the establishment of the qualified
25 municipality, the voting membership of the board of education shall be
26 comprised of the three members appointed by the Governor pursuant
27 to subsection a. of this section and any member of the board of
28 education as comprised prior to the establishment of a qualified
29 municipality with an unexpired term.

30 c. At the second organizational meeting conducted pursuant to
31 N.J.S.18A:10-3 following the establishment of the qualified
32 municipality, the voting membership of the board of education shall be
33 comprised of the three members appointed by the Governor pursuant
34 to subsection a. of this section, three members appointed by the mayor
35 of the qualified municipality with the advice and consent of the city
36 council and any member of the board of education as comprised prior
37 to the establishment of a qualified municipality with an unexpired term.
38 Members appointed by the mayor, with the advice and consent of the
39 city council shall serve three-year terms and shall be eligible for
40 reappointment.

41 d. There shall be no school election of school board members
42 conducted in the first two years following the establishment of a
43 qualified municipality. In the third year following the establishment of
44 the qualified municipality, a school election of school board members
45 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)
46 and three members of the board of education shall be elected by the

1 voters to serve three-year terms.

2 e. In the fourth year and each subsequent year thereafter, up until
3 the tenth year following the establishment of the qualified municipality,
4 members shall be appointed or elected as provided hereinabove upon
5 the expiration of the members' terms. In the tenth year following the
6 establishment of the qualified municipality, a school election of school
7 board members shall be conducted pursuant to P.L.1995, c.278
8 (C.19:60-1 et seq.) and three members of the board of education shall
9 be elected by the voters to fill the vacancies of the Governor's
10 appointees whose terms expire. The elected members shall serve
11 three-year terms. In the eleventh year following the establishment of
12 the qualified municipality, a school election of school board members
13 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)
14 and three members of the board of education shall be elected by the
15 voters to fill the vacancies of the mayor's appointees whose terms
16 expire. The elected members shall serve three-year terms. In the
17 twelfth year following the establishment of the qualified municipality
18 and each year thereafter successors to the members whose terms
19 expire shall be elected for three-year terms as provided by law.

20 f. The membership of the board of education serving in a school
21 district which is contiguous with a qualified municipality and which is
22 subject to level II monitoring or level III monitoring pursuant to
23 section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set
24 forth in this section in order to ensure the State's and the
25 municipality's ability to participate in the activities of the board.
26 Board members appointed by the Governor or mayor shall be voting
27 members of the board and shall have all the rights, powers and
28 privileges of a member of the board. Members appointed by the
29 Governor or mayor shall serve at the pleasure of the Governor or
30 mayor, as appropriate. Any vacancy in the membership appointed by
31 the Governor or mayor shall be filled in the same manner as the
32 original appointment, but for the unexpired term only. The first
33 members appointed by the Governor shall serve for a term
34 commencing upon appointment and qualification and ending three
35 years from the date that the number of members of the board returns
36 to the number on the board prior to the designation of the qualified
37 municipality. Members appointed thereafter shall serve for a term of
38 three years as provided in this section.

39 In order to ensure substantial local representation on any such
40 board, in no case shall the number of the positions appointed by the
41 mayor and elected by the voters, combined, constitute less than a
42 majority of the total positions on the board. This section shall not
43 apply to State-operated school districts established pursuant to
44 P.L.1987, c.399 (C. 18A:7A-34 et seq.).

45 b. The membership of a type I board of education in a qualified
46 municipality consisting of five members shall be temporarily increased

1 to include two additional members to be appointed by the Governor
2 upon receipt of notification by the Commissioner of Education
3 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
4 three years, as set forth in subsection a. of this section. The first two
5 positions on the board, the terms of which expire after the designation
6 of a qualified municipality, shall be abolished upon expiration of their
7 terms and shall not be filled by mayoral appointments so that the total
8 membership of the board returns to five members. The Governor shall
9 continue to make appointments to fill the positions held by the
10 gubernatorial appointees, when their terms expire or when a vacancy
11 occurs, until after the tenth year following the designation of the
12 qualified municipality. Beginning in the first year following the tenth
13 year after the designation of the qualified municipality, vacancies
14 resulting from the expiration of a term, or for any other reason, in any
15 position on the board filled by gubernatorial appointment shall be filled
16 in the same manner as provided before the designation of the qualified
17 municipality.

18 c. The membership of a type I board of education in a qualified
19 municipality consisting of seven members shall be temporarily
20 increased to include three additional members to be appointed by the
21 Governor upon receipt of notification by the Commissioner of
22 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
23 for a term of three years, as set forth in subsection a. of this section.
24 The first three positions on the board, the terms of which expire after
25 the designation of a qualified municipality, shall be abolished upon
26 expiration of their terms and shall not be filled by mayoral
27 appointments so that the total membership of the board returns to
28 seven members. The Governor shall continue to make appointments
29 to fill the positions held by gubernatorial appointees, when their terms
30 expire or when a vacancy occurs, until after the tenth year following
31 the designation of the qualified municipality. Beginning in the first
32 year following the tenth year after the designation of the qualified
33 municipality, vacancies resulting from the expiration of a term, or for
34 any other reason, in any position on the board filled by gubernatorial
35 appointment shall be filled in the same manner as provided before the
36 designation of the qualified municipality.

37 d. The membership of a type I board of education in a qualified
38 municipality consisting of nine members shall be temporarily increased
39 to include three additional members to be appointed by the Governor
40 upon receipt of notification by the Commissioner of Education
41 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
42 three years as set forth in subsection a. of this section. The first three
43 positions on the board, the terms of which expire after the designation
44 of a qualified municipality, shall be abolished upon expiration of their
45 terms and shall not be filled by mayoral appointments so that the total
46 membership of the board returns to nine members. The Governor shall

1 continue to make appointments to fill the positions held by
2 gubernatorial appointees, when their terms expire or when a vacancy
3 occurs, until after the tenth year following the designation of the
4 qualified municipality. Beginning in the first year following the tenth
5 year after the designation of the qualified municipality, vacancies
6 resulting from the expiration of a term, or for any other reason, in any
7 position on the board filled by gubernatorial appointment shall be filled
8 in the same manner as provided before the designation of the qualified
9 municipality.

10 e. The membership of a type II board of education in a qualified
11 municipality consisting of three members shall be temporarily
12 increased to include one additional member to be appointed by the
13 Governor upon receipt of notification by the Commissioner of
14 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
15 for a term of three years as set forth in subsection a. of this section.
16 The first position on the board, the term of which expires after the
17 designation of a qualified municipality, shall be abolished upon
18 expiration of its term and shall not be filled in the same manner as
19 provided before the designation of the qualified municipality so that
20 the total membership of the board returns to three members. The
21 Governor shall continue to make appointments to fill the position held
22 by a gubernatorial appointee when the term expires or when a vacancy
23 occurs, until after the tenth year following the designation of the
24 qualified municipality. Beginning in the first year following the tenth
25 year after the designation of the qualified municipality, a vacancy
26 resulting from the expiration of the term in the position on the board
27 filled by gubernatorial appointment shall be filled in the same manner
28 as provided before the designation of the qualified municipality.

29 The second position on the board, the term of which expires after
30 the designation of a qualified municipality, shall be abolished upon
31 expiration of its term and shall not be filled in the same manner as
32 provided before the designation of the qualified municipality. Instead,
33 the vacancy shall be filled by a mayoral appointment as described in
34 subsection a. of this section so that the total membership of the board
35 remains at three. Mayoral appointees shall serve for a term of three
36 years. The mayor shall continue to make appointments to fill the
37 position held by a mayoral appointee when the term expires or when
38 a vacancy occurs, until after the tenth year following the designation
39 of the qualified municipality. Beginning in the first year following the
40 tenth year after the designation of the qualified municipality, a vacancy
41 resulting from the expiration of the term in the position on the board
42 filled by mayoral appointment shall be filled in the same manner as
43 provided before the designation of the qualified municipality.

44 f. The membership of a type II board of education in a qualified
45 municipality consisting of five members shall be temporarily increased
46 to include two additional members to be appointed by the Governor

1 upon receipt of notification by the Commissioner of Education
2 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
3 three years as set forth in subsection a. of this section. The first two
4 positions on the board, the terms of which expire after the designation
5 of a qualified municipality, shall be abolished upon expiration of their
6 terms and shall not be filled in the same manner as provided before the
7 designation of the qualified municipality so that the total membership
8 of the board returns to five members. The Governor shall continue to
9 make appointments to fill the positions held by gubernatorial
10 appointees when the terms expire or when a vacancy occurs, until after
11 the tenth year following the designation of the qualified municipality.
12 Beginning in the first year following the tenth year after the
13 designation of the qualified municipality, vacancies resulting from the
14 expiration of a term in any position on the board filled by gubernatorial
15 appointment shall be filled in the same manner as provided before the
16 designation of the qualified municipality.

17 The third position on the board, the term of which expires after the
18 designation of a qualified municipality, shall be abolished upon
19 expiration of its term and shall not be filled in the same manner as
20 provided before the designation of the qualified municipality. Instead,
21 the vacancy shall be filled by a mayoral appointment as described in
22 subsection a. of this section so that the total membership of the board
23 remains at five. Mayoral appointees shall serve for a term of three
24 years. The mayor shall continue to make appointments to fill the
25 position held by a mayoral appointee when the term expires or when
26 a vacancy occurs, until after the tenth year following the designation
27 of the qualified municipality. Beginning in the first year following the
28 tenth year after the designation of the qualified municipality, a vacancy
29 resulting from the expiration of the term in the position on the board
30 filled by mayoral appointment shall be filled in the same manner as
31 provided before the designation of the qualified municipality.

32 g. The membership of a type II board of education in a qualified
33 municipality consisting of seven members shall be temporarily
34 increased to include three additional members to be appointed by the
35 Governor upon receipt of notification by the Commissioner of
36 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
37 for a term of three years as set forth in subsection a. of this section.
38 The first three positions on the board, the terms of which expire after
39 the designation of a qualified municipality, shall be abolished upon
40 expiration of their terms and shall not be filled in the same manner as
41 provided before the designation of the qualified municipality so that
42 the total membership of the board returns to seven members. The
43 Governor shall continue to make appointments to fill the positions held
44 by gubernatorial appointees when the terms expire or when a vacancy
45 occurs, until after the tenth year following the designation of the
46 qualified municipality. Beginning in the first year following the tenth

1 year after the designation of the qualified municipality, vacancies
2 resulting from the expiration of a term in any position on the board
3 filled by gubernatorial appointment shall be filled in the same manner
4 as provided before the designation of the qualified municipality.

5 The fourth and fifth positions on the board, the terms of which
6 expire after the designation of a qualified municipality, shall be
7 abolished upon expiration of their terms and shall not be filled in the
8 same manner as provided before the designation of the qualified
9 municipality. Instead, the vacancies shall be filled by mayoral
10 appointments as described in subsection a. of this section so that the
11 total membership of the board remains at seven. Mayoral appointees
12 shall serve for a term of three years. The mayor shall continue to
13 make appointments to fill the positions held by mayoral appointees
14 when the terms expire or when a vacancy occurs, until after the tenth
15 year following the designation of the qualified municipality. Beginning
16 in the first year following the tenth year after the designation of the
17 qualified municipality, vacancies resulting from the expiration of a
18 term in any position on the board filled by mayoral appointment shall
19 be filled in the same manner as provided before the designation of the
20 qualified municipality.

21 h. The membership of a type II board of education in a qualified
22 municipality consisting of nine members shall be temporarily increased
23 to include three additional members to be appointed by the Governor
24 upon receipt of notification by the Commissioner of Education
25 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
26 three years as set forth in subsection a. of this section. The first three
27 positions on the board, the terms of which expire after the designation
28 of a qualified municipality, shall be abolished upon expiration of their
29 terms and shall not be filled in the same manner as provided before the
30 designation of the qualified municipality so that the total membership
31 of the board returns to nine members. The Governor shall continue to
32 make appointments to fill the positions held by gubernatorial
33 appointees when the terms expire or when a vacancy occurs, until after
34 the tenth year following the designation of the qualified municipality.
35 Beginning in the first year following the tenth year after the
36 designation of the qualified municipality, vacancies resulting from the
37 expiration of a term in any position on the board filled by gubernatorial
38 appointment shall be filled in the same manner as provided before the
39 designation of the qualified municipality.

40 The fourth, fifth and sixth positions on the board, the terms of
41 which expire after the designation of a qualified municipality, shall be
42 abolished upon expiration of their terms and shall not be filled in the
43 same manner as provided before the designation of the qualified
44 municipality. Instead, the vacancies shall be filled by mayoral
45 appointment as described in subsection a. of this section so that the
46 total membership of the board remains at nine. Mayoral appointees

1 shall serve for a term of three years. The mayor shall continue to
2 make appointments to fill the positions held by mayoral appointees
3 when the terms expire or when a vacancy occurs, until after the tenth
4 year following the designation of the qualified municipality. Beginning
5 in the first year following the tenth year after the designation of the
6 qualified municipality, vacancies resulting from the expiration of a
7 term in any position on the board filled by mayoral appointment shall
8 be filled in the same manner as provided before the designation of the
9 qualified municipality.

10 i. At all times the board of education and its membership shall
11 comply with the requirements of the "Open Public Meetings Act,"
12 P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act,"
13 P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and
14 qualifications for board membership established pursuant to chapter 12
15 of Title 18A of the New Jersey Statutes.
16 (cf: P.L.2002, c.43, s.67)

17
18 14. Section 68 of P.L.2002, c.43 (C.52:27BBB-64) is amended to
19 read as follows:

20 68. a. Notwithstanding the provisions of Title 18A or any other
21 law, rule, or regulation to the contrary, the minutes of every meeting
22 of the board of education of a school district contiguous with a
23 qualified municipality [and constituted pursuant to N.J.S.18A:9-3]
24 subject to level II or level III monitoring and identified by the
25 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
26 shall be subject to the veto provisions set forth in subsection b. of this
27 section. This section shall not apply to State-operated school districts
28 established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

29 b. A true copy of the minutes of every meeting of a board of
30 education described in subsection a. of this section shall be forthwith
31 delivered by and under the certification of the secretary thereof to the
32 Governor. No action taken at that meeting of the board of education
33 shall have force or effect until 15 days after a copy of the minutes shall
34 have been so delivered unless during that 15-day period the Governor
35 shall approve those minutes, in which case the action shall become
36 effective upon that approval. If, in the 15-day period, the Governor
37 returns the copy of those minutes with a veto of any action taken by
38 the board of education or any member thereof at that meeting, the
39 action shall be null and void and of no effect.

40 (cf: P.L.2002, c.43, s.68)

41
42 15. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read
43 as follows:

44 8. a. Admission to housing projects constructed, improved or
45 rehabilitated under this act shall be limited to families whose gross
46 aggregate family income at the time of admission does not exceed six

1 times the annual rental or carrying charges, including the value or cost
2 to them of heat, light, water, sewerage, parking facilities and cooking
3 fuel, of the dwellings that may be furnished to such families, or seven
4 times those charges if there are three or more dependents. There may
5 be included in the carrying charges to any family for residence in any
6 mutual housing project constructed, improved or rehabilitated with a
7 loan from the agency an amount equal to 6% of the original cash
8 investment of the family in the mutual housing project and, to the
9 extent authorized by the agency where not included in the carrying
10 charges, the value or cost of repainting the apartment and replacing
11 any fixtures or appliances. Notwithstanding the provisions of this
12 section, no family or individual shall be eligible for admission to any
13 housing project constructed, improved or rehabilitated with a loan
14 from the agency, whose gross aggregate family income exceeds such
15 amount as shall be established from time to time by the agency, by
16 rules or regulations promulgated hereunder; except that with respect
17 to any project financed by an agency loan insured or guaranteed by the
18 United States of America or any agency or instrumentality thereof, the
19 agency may adopt the admission standards for such projects then
20 currently utilized or required by the guarantor or insurer.

21 The provisions of this subsection shall not apply to any housing
22 project situated in a qualified municipality that is constructed,
23 improved or rehabilitated on or after the [effective date of P.L.2002,
24 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner
25 determines that the municipality fulfills the definition of a qualified
26 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

27 b. The agency shall by rules and regulations provide for the
28 periodic examination of the income of any person or family residing in
29 any housing project constructed, improved or rehabilitated with a loan
30 from the agency. If the gross aggregate family income of a family
31 residing in a housing project increases and the ratio to the current
32 rental or carrying charges of the dwelling unit becomes greater than
33 the ratio prescribed for admission in subsection a. of this section but
34 is not more than 25% above the family income so prescribed for
35 admission to the project, the owner or managing agent of the housing
36 project shall permit the family to continue to occupy the unit. The
37 agency or (with the approval of the agency) the housing sponsor of
38 any housing project constructed, improved or rehabilitated with a loan
39 from the agency, may terminate the tenancy or interest of any family
40 residing in the housing project whose gross aggregate family income
41 exceeds by 25% or more the amount prescribed herein and which
42 continues to do so for a period of six months or more; but no tenancy
43 or interest of any such family in any such housing project shall be
44 terminated except upon reasonable notice and opportunity to obtain
45 suitable alternate housing, in accordance with rules and regulations of
46 the agency; and any such family, with the approval of the agency, may

1 be permitted to continue to occupy the unit, subject to payment of a
2 rent or carrying charge surcharge to the housing sponsor in
3 accordance with a schedule of surcharges fixed by the agency. The
4 housing sponsor shall pay the surcharge to the municipality granting
5 tax exemption, but only up to an amount that together with payments
6 made to the municipality in lieu of taxes and for any land taxes equals
7 25% of the total rents or carrying charges of the housing project for
8 the current and any prior years that the project has been in operation.

9 The provisions of this subsection shall not apply to any housing
10 project situated in a qualified municipality that is constructed,
11 improved or rehabilitated on or after the [effective date of P.L.2002,
12 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner
13 determines that the municipality fulfills the definition of a qualified
14 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

15 c. For projects on which the agency has made a loan and financed
16 the loan with the proceeds of bonds issued prior to January 1, 1973,
17 any remainder of the surcharge, or the total surcharge if tax exemption
18 has not been granted, shall be paid into the housing finance fund
19 securing the bonds issued to finance the project for the use of the
20 agency; for projects financed on or after January 1, 1973, any
21 remainder of the surcharge, or the total surcharge if tax exemption has
22 not been granted, shall be paid to the agency.

23 d. Any family residing in a mutual housing project required to
24 remove from the project because of excessive income as herein
25 provided shall be discharged from liability on any note, bond or other
26 evidence of indebtedness relating thereto and shall be reimbursed, in
27 accordance with the rules of the agency, for all sums paid by the family
28 to the housing sponsor on account of the purchase of stock or
29 debentures as a condition of occupancy or on account of the
30 acquisition of title for such purpose.

31 The provisions of this subsection shall not apply to any housing
32 project situated in a qualified municipality that is constructed,
33 improved or rehabilitated on or after the [effective date of P.L.2002,
34 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner
35 determines that the municipality fulfills the definition of a qualified
36 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

37 e. The agency shall establish admission rules and regulations for
38 any housing project financed in whole or in part by loans authorized
39 hereunder which shall provide priority categories for person displaced
40 by urban renewal projects, highway programs or other public works,
41 persons living in substandard housing, persons and families who, by
42 reason of family income, family size or disabilities, have special needs,
43 elderly persons and families living under conditions violative of
44 minimum health and safety standards.

45 The provisions of this subsection shall not apply to any housing
46 project situated in a qualified municipality that is constructed,

1 improved or rehabilitated on or after the [effective date of P.L.2002,
2 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner
3 determines that the municipality fulfills the definition of a qualified
4 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).
5 (cf: P.L.2002, c.43, s.65)

6
7 16. (New section) Upon receipt of notification by the
8 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-
9 4), the State Treasurer shall prepare an economic stimulus package
10 designed to foster the revitalization of the qualified municipality and
11 submit those recommendations, along with amounts necessary to
12 achieve those revitalization objectives to the Governor, each member
13 of the Senate and General Assembly, and each member of the State
14 Economic Recovery Board for the qualified municipality established
15 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36), within 60
16 days following the appointment of the last member. The economic
17 stimulus package for the first municipality designated following the
18 effective date of P.L.2002, c.43 (C.52:27BBB-1 et seq.) shall consist
19 of those financing arrangements set forth in Article 5 of P.L.2002, c.43
20 (C.52:27BBB-44 through 52).

21
22 17. This act shall take effect immediately and shall be retroactive
23 to June 30, 2002.

24 25 STATEMENT

26
27 This bill amends and clarifies the "Municipal Rehabilitation and
28 Economic Recovery Act," P.L.2002, c.43, in order to ensure an
29 accurate expression of the legislative intent in enacting that law. That
30 act is now the subject of litigation contending that it is improper.
31 Although the Legislature contends that a lower court determination
32 regarding two sections of that enactment misconstrued the legislative
33 intent of P.L.2002, c.43, it is the Legislature's opinion that given the
34 urgent nature of the problems the act seeks to address, it is preferable
35 to clarify some of the issues raised through legislative enactment rather
36 than through time-consuming, costly litigation. At a time when public
37 resources are scarce and the underlying conditions that the act
38 confronts require coordinated, targeted and early solutions, it is
39 important that public dollars and resources be spent on rehabilitation
40 and recovery.

41 Ofttimes, the fiscal stress, economic impoverishment, crime, and
42 financial mismanagement which characterizes certain municipalities in
43 this State also afflict the school district which serves the same
44 population, but not necessarily. Certainly there exists ample
45 justification for a multipronged approach to urban revitalization which
46 recognizes the importance of addressing problems which exist in the

1 school district simultaneously with those on the municipal side of
2 government operation. Given the magnitude of the State's investment
3 in these municipalities and the failure of previous legislative measures
4 to resolve the problems of municipalities with these characteristics, the
5 Legislature has developed a response that seeks to improve
6 governance at both the municipal and school district level, at a time
7 when substantial resources will be directed to the community.

8 As a result, the Legislature has imposed certain criteria limiting the
9 act's application to municipalities that have been or may be subject to
10 oversight by both a financial review board and the local finance board
11 and which receive at least 55 percent of their budgets from State
12 appropriations, now or in the future. These qualified municipalities
13 are characterized by recurring fiscal distress, difficulties in managing
14 public dollars and resources and chronic reliance on State revenues.

15 P.L.2002, c.43 applied to any school district contiguous with a
16 qualified municipality. Instead, this bill provides for a parallel process
17 of designating a school district. The pertinent provisions of the bill
18 address only districts that are located in a qualified municipality and
19 that are subject to Level II or Level III monitoring pursuant to
20 N.J.S.A.18A:7A-14. Thus, only those schools that are not making
21 sufficient progress to meet the thoroughness and efficiency standards
22 due to problems in the district's operation are subject to these
23 provisions. These requirements ensure that the State oversight of
24 school districts, as contemplated by the act, will be appropriately
25 applied only in districts that are subject to State monitoring.

26 At present, only the City of Camden and its school district meet the
27 criteria specified in the act. It is not, however, the Legislature's intent
28 to exclude other municipalities whose financial circumstances and
29 governance challenges, as defined under the act, may require similar
30 responses in the future.

31 Among the bill's provisions are language amendments clarifying and
32 reaffirming that other similarly situated municipalities may meet the
33 criteria of a qualified municipality and specifying when and how the
34 act becomes effective in other municipalities. The bill also amends
35 those provisions relating to the expansion and composition of boards
36 of education in qualified municipalities (subject to Level II and III
37 monitoring) so that they apply to the variety of board types found
38 throughout the State through the addition of language providing a
39 "composition" formula for boards composed of 3, 5 and 7 members.

40 Finally, the bill establishes a process for determining appropriations
41 and allocations of monies to municipalities other than Camden that
42 meet the definition of a qualified municipality subsequent to the
43 passage of the act. This provision requires the State Treasurer to
44 prepare an economic stimulus package that will be carefully tailored
45 to meet the needs of any subsequently qualifying municipality and will
46 foster its revitalization. The Treasurer's comprehensive plan is then

1 required to be submitted to the State Economic Recovery Board for
2 that municipality within 60 days following the appointment of the last
3 member. As a result, any subsequently qualifying municipality will
4 find itself benefiting from an immediate economic stimulus plan
5 developed by the State Treasurer.

6 The bill would also add two nonvoting ex officio legislative
7 members to the State Economic Recovery Board to be appointed by
8 the Governor, one of whom upon the recommendation of the Senate
9 President and the other upon the recommendation of the Speaker of the
10 General Assembly. These members are nonvoting, advisory members,
11 appointed solely for the purpose of developing and facilitating
12 legislation to assist the board in fulfilling its statutory mission, and may
13 not exercise any of the executive powers delegated to the board.

14 In conclusion, these amendments detail a variety of appropriate
15 steps necessary to ensure coordinated and effective governance and
16 revitalization at the municipal level while ensuring, if necessary,
17 effective governance at the school district level. These complementary
18 goals protect the municipal tax base, assist the district in improving the
19 quality of education and assist revitalization and redevelopment by
20 improving the municipal infrastructure, including the educational
21 opportunities offered to its citizens.

22
23
24
25
26 Amends "Municipal Rehabilitation and Economic Recovery Act."